

OPINION
46-314

April 29, 1946 (OPINION)

WEAPONS

RE: Tear Gas Guns

This office is in receipt of your letter of April 24, 1946, in which you say that the question has been presented to you as to whether the carrying of a tear gas weapon in the form of a fountain pen is against the law. You say that the only applicable code provision that you can find is section 62-0301 of the 1943 Revised Code. You desire the opinion of this office as to whether this section is broad enough to include the "fountain pen" as a dangerous weapon.

It is my opinion that any weapon loaded with tear gas and capable of being discharged is a dangerous weapon and that any person, other than a police officer, has no right to carry it on his person. A tear gas gun, whether in the form of a fountain pen or in any other form, is in my opinion a dangerous weapon, usually employed by criminals as well as officers in attack or defense. A tear gas weapon in the form of a fountain pen is in reality a sort of a tear gas bomb which is controlled and can be handled or fired as a gun. Even though there may be a doubt as to whether or not such a fountain pen is in fact a dangerous weapon and is prohibited by the statutes of this state, it is my opinion that this office and the state's attorney office should so construe the law as to make the carrying and possession of such a so-called pen illegal.

NELS G. JOHNSON

Attorney General